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| 10/754,394 | 01/09/2004 | Michael Frank Walsh | WMFR-P01-001 | 9186 |

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| EXAMINER |
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GARCIA, ERNESTO

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| ART UNIT | PAPER NUMBER |
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3679

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary

Application No.

10/754,394

Applicant(s)

WALSH, MICHAEL FRANK

Examiner

Ernesto Garcia

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 7 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election

Applicant's election with traverse of claims 1, 2, and 4-9 in the reply filed on December 13, 2004 is acknowledged. The traversal is on the ground(s) that the subject matter between the two species are related in structure and function and therefore it would not constitute a significant additional burden to examiner claims directed to all low force release mechanism. This is not found persuasive because applicant has failed to show that a coextensive search for both species is a reason for not requiring an election requirement. Furthermore, applicant has failed to show that "search" is the only criteria that goes into determining the existence of a "serious burden". Moreover, it is axiomatic that species related in function and structure would be "related in structure" as to render a similar search. Nevertheless, claim 3 remains as evidence that the mechanism comprises one roller slug instead of ball bearings. Therefore, the second species is structurally different. Accordingly, to have to examine two species of different scope in the same application, including consideration of individual arguments for each species would impart a serious burden upon the examiner.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "2" has been used to designate both spring pin without an extension as shown in Figures 1, 3 and 4 and a spring pin with an extension (Fig. 5). Applicant has indicated that "2" refers to a spring pin in all instances and the presence or lack of the extension is not relevant to its key functions. This is not persuasive as the spring pin in all instances is not the same identical spring pin. The fact that one has an extension and the other does not have an extension does not render the same pin in all instances. Therefore, the spring pin in Figure 5 is another species of the spring pin and needs to be label as 2'.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "8" has been used to designate both spring trigger with an internal spring (unreferenced) (Figure 1) and a spring trigger without an internal spring (Fig. 5).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "10" and "11" shown in Figure 1.

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The drawings are objected to because Figure 1 has two views. Applicant needs to separate the alternate position of the mechanism into a different view. See CFR 1.84(h)(4).

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the examiner does not accept the changes to the drawing figure(s), applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the limitations "internal spring activation element comprises an internal spring pin, an internal spring, and a release pin" recited in lines 3-4 of claim 1, and "internal release activation element comprises the release pin and one or more ball bearings or slugs" recited in lines 8-9 lack proper antecedent basis in the specification.

The disclosure is objected to because the name of some of the components in the detail description of the embodiment do not match with those recited in the claims thereby it making difficult to match those components recited in the claim with those of the components referenced in the detail description of the drawings. For instance, the specification refers to 8 as an internal spring trigger and the claim, as best matched, refers to the same component, as an internal spring activation element. Appropriate correction is required.

Claim Objections

Claims 1, 7, 9 and 11 are objected to because of the following informalities:

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regarding claim 1, --said-- needs to be inserted before "trap" in line 5;

regarding claim 7, --further-- needs to be inserted after "element" in line 2;

regarding claim 9, --said-- needs to be inserted before "trap" in line 5, "a trigger" in line 10 should be --the trigger--, and furthermore it is unclear whether applicant is positively claiming the string and particularly attached to the trigger; and,

regarding claim 11, --further-- needs to be inserted after "element" in line 2.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 4, and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, the metes and bounds of the claim is unclear. Applicant has stated in lines 8-9 of claim 1 that the "internal release activation element comprises the release pin and one or more ball bearings or slugs" which indicates that the internal release activation element is a release pin and one or more ball bearing. However, claim 2 states that "the internal release activation element comprises at least one ball

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bearing" which makes uncertain whether the internal release activation element still comprises the release pin as stated in claim 1 or just one ball bearing only.

Regarding claim 4, the metes and bounds of the claim is unclear. Applicant has stated in lines 8-9 of claim 1 that the "internal release activation element comprises the release pin and one or more ball bearings or slugs" which indicates that the internal release activation element is a release pin and one or more ball bearing. However, claim 4 states that "the internal release activation element comprises low frictional ball bearings" which makes uncertain whether the internal release activation element still comprises the release pin as stated in claim 1 or just low frictional ball bearings only. Furthermore, it is unclear whether "low frictional ball bearings" in line 2 are different ball bearings than those recited in lines 8-9 or the same bearings. Moreover, the term "low" in claim 4 is a relative term, which renders the claim indefinite. The term "low" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. In other words, what's considered low?

Regarding claim 6, it is unclear what particular feature of the hanger causes locking of the internal spring activation element.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4,-6, and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon, Jr., 2,928,693, in view of Eakin, 3,009,729.

Regarding claim 1, Cannon, Jr., discloses, in Figures 1 and 3, a low-force release mechanism comprising a main structure **20**, a trap **32**, an internal spring activation element **38,40,36**, at least one trigger **59**, and attachments **A15**. A load force **A10** is distributed away from the trigger **59**. An internal release activation element **36** comprises the release pin **36** and one or more ball bearings **46,48** or slugs interacts with an internal geometry **44** of the trap **32**. The internal spring activation element **38,40,36** comprises an internal spring pin **38**, an internal spring **40**, and a release pin **36**. However, Cannon, Jr. fails to disclose a container attached to the main structure **20** and the trap **32**. Eakin teaches, in Fig. 1, a low-force release mechanism a container attached to a main structure **20** and a trap **32** to be released from being carried.

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Regarding claim 2, the internal release activation element **36** comprises at least one *** ***14**.

Regarding claim 4, the internal release activation element **36** comprises low frictional ball bearings.

Regarding claim 5, the mechanism further comprises a hanger **12**.

Regarding claim 6, the mechanism further comprises a hanger **12**.

Regarding claim 8, the container is selected from bags, boxes, collapsible boxes, and nets.

Regarding claim 9, Cannon, Jr. discloses, in Figures 1 and 3, a low force release mechanism comprising a main structure **20**, a trap **32**, and internal spring activation element **38,40,36**, at least one trigger **59**, and attachments **A15**. The internal spring activation element **38,40,36** comprises an internal spring pin **38**, and internal spring **40**, and a release pin **36**. A load force **A10** is distributed away from the trigger **59**. The internal release activation element **36** comprises the release pin **36** and ball bearings **46,48** or slugs interacts with an internal geometry **44** of the trap **32**. However, However, Cannon, Jr. fails to disclose a container attached to the main structure **20** and the trap **32**; and a string attached to the trigger **59**.

Regarding claim 10, the load force **A10** is distributed to the main structure **20** and to the trap **32**.

Allowable Subject Matter

Claims 7 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 7, the prior art of record does not disclose or suggest a low-force release mechanism comprising an internal release activation element further comprising a lift spring; and,

regarding claim 11 the prior art of record does not disclose or suggest a low-force release mechanism comprising an internal release activation element further comprising a trap spring.

Response to Arguments

Applicant's arguments with respect to claims 1-6 and 8-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. In particular, the new limitations "the internal spring activation element comprises an internal spring pin, an internal spring, and a release pin" recited in lines 3-4 of claims 1 and 9 necessitate the new grounds. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-308-8606. The examiner can normally be reached from 9:30-6:00. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E.G.

February 4, 2005

Attachment: one marked-up page of Cannon, Jr., 2,928,693.



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

FIG.1.

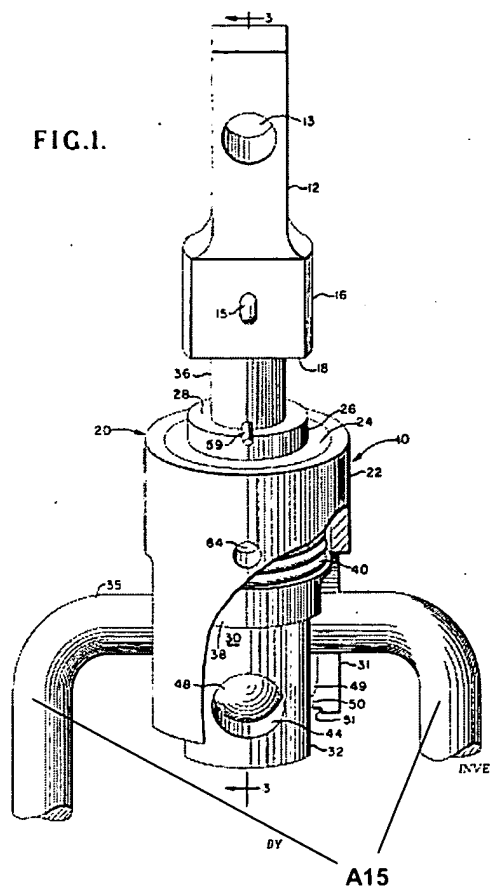


FIG.3.

